

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:20-cv-00337-GCM
(3:15-cr-00259-GCM-DCK-1)**

JOHN JAMAR DAVIS,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

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ORDER

THIS MATTER is before the Court on Petitioner's Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255 [Doc. 1] and on Petitioner's Motion to Hold Case in Abeyance [Doc. 3].

The Court has conducted an initial screening of the petition under the Rules Governing § 2255 Proceedings, Rule 4(b) 28 U.S.C.A. foll. § 2255, and finds: (1) the petition has been signed under penalty of perjury, Rule 2(b)(5), 28 U.S.C.A. foll. § 2255; (2) Petitioner has provided indicia that the petition was timely filed, see § 2255(f); and (3) Petitioner has asserted at least one colorable claim for relief cognizable under § 2255(a). Upon consideration of the motion and the record of prior proceedings, the Court determines that the United States Attorney should file a response to Petitioner's allegations. Id.

Petitioner, however, has moved to hold this action in abeyance pending the issuance of the mandate of the Fourth Circuit Court of Appeals in United States v. Medley, No. 18-4789, and to order the Government to respond to Petitioner's motion to vacate within thirty (30) days of the issuance of the Medley mandate. [Doc. 3]. The Government consents to Petitioner's motion.

[Id.]. For good cause shown, the Court will grant this motion.

Petitioner may file a reply to the United States' response pursuant to Rule 5(d) of the Rules Governing Section 2255 Proceedings. The Court orders that any such reply must be filed within twenty-one (21) days of the United States' response.

IT IS, THEREFORE, ORDERED that:

1. Petitioner's Motion to Hold Case in Abeyance [Doc. 3] is **GRANTED**. The Government shall respond to Petitioner's motion to vacate within thirty (30) days of the mandate in United States v. Medley, No. 18-4789.
2. Any reply filed by Petitioner must be filed within twenty-one (21) days of the Government's response.

Signed: June 25, 2020



Graham C. Mullen
United States District Judge

